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**Attorneys for Plaintiff**  
**PHL VARIABLE INSURANCE COMPANY**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

PHL VARIABLE INSURANCE CO.,  
Plaintiff,  
v.  
HOWARD ABRAMS; MAYFAIR  
STRATEGIES, LLC; and THE  
ABRAMS FAMILY IRREVOCABLE  
LIFE INSURANCE TRUST, by and  
through its trustee, H. BRUCE  
ABBOTT,  
Defendants.

Case No. 10 CV 0521-BTM-NLS

**PHL VARIABLE INSURANCE  
COMPANY'S NOTICE OF  
SUPPLEMENTAL AUTHORITY  
REGARDING DEFENDANT THE  
ABRAMS FAMILY IRREVOCABLE  
LIFE INSURANCE TRUST'S  
MOTION TO DISMISS  
PLAINTIFF'S SECOND AMENDED  
COMPLAINT**

Motion Submitted July 8, 2011 [Doc. 48]

1 Plaintiff PHL Variable Insurance Company (“Phoenix”) respectfully submits  
2 this Notice of Supplemental Authority Regarding Defendant the Abrams Family  
3 Irrevocable Life Insurance Trust’s Motion to Dismiss Plaintiff’s Second Amended  
4 Complaint.

5 On June 17, 2011, Phoenix filed its Opposition to the Abrams Family  
6 Irrevocable Life Insurance Trust’s Motion to Dismiss Plaintiff’s Second Amended  
7 Complaint. [Document 45] (“Opposition”). On June 24, 2011, the Trust filed a  
8 Response in support of its motion to dismiss Plaintiff’s Second Amended  
9 Complaint. [Document 46]. On July 8, 2011, this Court issued a minute order  
10 submitting the Trust’s motion to dismiss for decision. [Document 48].

11 On September 20, 2011, the Supreme Court of the State of Delaware issued  
12 an opinion supporting the arguments Phoenix made in its Opposition. *See PHL*  
13 *Variable Ins. Co. v. Price Dawe 2006 Ins. Trust, ex rel. Christiana Bank & Trust*  
14 *Co.*, 28 A.3d 1059 (Del. 2011). The *Dawe* opinion is attached hereto as Exhibit A.

15 In addition, the United States District Court for the Southern District of  
16 Florida issued an opinion on November 14, 2011, supporting the arguments  
17 Phoenix made in its Opposition. *See Order Granting Plaintiff Pruco Life Insurance*  
18 *Company’s Motion for Summary Judgment and Denying Defendant Wells Fargo*  
19 *Bank, N.A.’s Motion for Summary Final Judgment, Pruco Life Insurance Co. v.*  
20 *Brasner, et al.*, No. 10-80804-CIV-COHN/SELTZER (S.D. Fla. Nov. 14, 2011).  
21 The *Pruco Life Insurance Co.* Order is attached hereto as Exhibit B.

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1 Phoenix requests that this Court take note of these decisions supporting  
2 Phoenix's position in this case.

3 DATED: November 30, 2011

HAYNES AND BOONE, LLP,  
KENNETH G. PARKER

4  
5 By: /s/ Kenneth G. Parker  
6 KENNETH G. PARKER  
7 Attorneys for Plaintiff  
8 PHL VARIABLE INSURANCE  
9 CO.

10  
11 **CERTIFICATE OF SERVICE**

12 I certify that on November 30, 2011, I filed the foregoing **PHL VARIABLE**  
13 **INSURANCE COMPANY'S NOTICE OF SUPPLEMENTAL AUTHORITY**  
14 **REGARDING DEFENDANT THE ABRAMS FAMILY IRREVOCABLE**  
15 **LIFE INSURANCE TRUST'S MOTION TO DISMISS PLAINTIFF'S**  
16 **SECOND AMENDED COMPLAINT** with the Court through this district's  
17 CM/ECF system. Pursuant to Local Rule 5-3.3, the "Notice of Electronic Filing"  
18 automatically generated by CM/ECF at the time the document is filed with the  
19 system constitutes automatic service of the document on counsel of record who  
20 have consented to electronic service.

21 /s/ William C. O'Neill  
22 William C. O'Neill  
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